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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Placer)

THE PEOPLE,

Plaintiff and Respondent,

v.

JOHN PATRICK WILLIAMSON,

Defendant and Appellant.

C067501

(Super. Ct. No.
62102656)

Defendant John Patrick Williamson was charged by felony complaint with one count of residential burglary (Pen. Code, § 459; unspecified section references that follow are to this code). It was further alleged that he had a prior first degree burglary conviction which was a strike (§§ 667, subds. (b)-(i), 1170, subd. (d)), a serious felony (§ 667, subd. (a)), and an offense for which he had served a prior prison term (§ 667.5, subd. (b)).

On November 12, 2010, prior to the preliminary hearing, defendant entered into a plea bargain whereby he pleaded no contest to the residential burglary charge in exchange for a state prison sentence of two years (low term) and the dismissal of the prior conviction allegations. The prosecutor stated the prior strike was being dismissed "based on the early resolution of this case." Accepting this reason, the court dismissed the prior strike.

On December 9, 2010, defendant was sentenced to two years in prison. The court imposed \$200 restitution fines in accordance with sections 1202.4 and 1202.45 and fees of \$40 for court security (\$ 1465.8, subd. (a)) and \$30 for court facility assessment (Gov. Code, § 70373, subd. (a)(1)). The court credited defendant with 51 days of presentence custody credit (35 actual days plus 16 conduct days).

Defendant timely filed a notice of appeal and obtained a certificate of probable cause for the appeal.

FACTUAL BASIS FOR PLEA

Between October 20 and 22, 2010, defendant entered the residence of Michael L. with the intent to commit larceny or a felony.

DISCUSSION

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*People v.*

Wende (1979) 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days have elapsed, and we have received no communication from defendant.

We reviewed the entire record and noted that defendant's certificate of probable cause was based upon his claim that the plea bargain he entered into was in violation of section 1192.7, subdivision (a). Section 1192.7, subdivision (a)(2) prohibits plea bargaining in cases where the information or indictment charges a prior strike conviction except under specified circumstances. Section 1192.7, subdivision (a)(2) provides: "Plea bargaining in any case in which the indictment or information charges any serious felony, any felony in which it is alleged that a firearm was personally used by the defendant, or any offense of driving while under the influence of alcohol, drugs, narcotics, or any other intoxicating substance, or any combination thereof, is prohibited, unless there is insufficient evidence to prove the people's case, or testimony of a material witness cannot be obtained, or a reduction or dismissal would not result in a substantial change in sentence." The specified circumstances do not include "early resolution of the case," the reason advanced by the prosecution and accepted by the court.

We asked for and received supplemental briefing on whether the plea bargain violated section 1192.7, subdivision (a). Both parties have complied. The prohibition against plea bargaining contained in section 1192.7 applies only to an "information" or "indictment." (*People v. Brown* (1986) 177 Cal.App.3d 537, 547,

fn. 11 ["Section 1192.7 applies only to bargains concerning 'indictments or informations' and thus does not limit plea bargaining concerning charges contained in complaints"].)

Our review of the record discloses an inadvertent error by the trial court when it imposed a \$40 court security fee pursuant to section 1465.8. Defendant was sentenced in December 2010. At that time the fee provided by section 1465.8 was \$30 per conviction. The \$40 per conviction rate did not go into operation until July 1, 2011.

Aside from the foregoing error, we have found no arguable issue that would result in a disposition more favorable to defendant.

DISPOSITION

The Placer County Superior Court is directed to prepare an amended abstract of judgment reflecting that the court security fee imposed pursuant to section 1465.8 is \$30 and to forward a certified copy to the Secretary of the Department of Corrections and Rehabilitation. In all other respects the judgment is affirmed.

_____, HULL, J.

We concur:

_____, BLEASE, Acting P. J.

_____, DUARTE, J.